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Attorney for CARRILLO-LOPEZ

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

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GUSTAVO CARRILLO-LOPEZ,

Defendant.

Case No. 3:20-CR-00026-MMD-WGC

NOTICE OF SUPPLEMENTAL AUTHORITY

Counsel requests an opportunity after the presentation of witnesses to address the government's supplemental authority, particularly as none of the courts at issue have permitted historians to testify. This Court, in contrast, is actually permitting a criminal defendant to make a full evidentiary record and conduct the sensitive inquiry required by *Arlington Heights*.

Counsel likewise notes that a close reading of the two Circuit cases cited by the government appear to provide legal support for Mr. Carrillo-Lopez's position, while being factually distinguishable. Counsel anticipates the Court will read the cases cited but also requests an opportunity to elaborate on these points after the witnesses testify. Counsel also submits the following for the Court's consideration in connection with the upcoming evidentiary hearing:

Exhibit A: Remarks of President Truman regarding his presidential Veto of the McCarran-Walter Act of 1952.

Exhibit B: Statement of Deputy Attorney General Peyton Ford from the Congressional Record of the McCarran-Walter Act of 1952 in what appears to be the only actual comment on what is now Section 1326 in the congressional record. Counsel highlighted the portion where Deputy Attorney General Peyton Ford discusses the illegal reentry provision and also highlights where Deputy Attorney General Peyton Ford uses the slur "wetback" in relation to the necessity of farm inspections. Wetback, if the Court is not aware, is a derogatory term used in the United States to refer to foreign nationals residing in the U.S., most commonly Mexicans. The word mostly targets undocumented immigrants in the United States. Generally used as an ethnic slur, the term was originally coined and applied only to Mexicans who entered the U.S. state of Texas from Mexico by crossing the Rio Grande river, which is the U.S. border, presumably by swimming or wading across the river and getting wet in the process.

Exhibit C: Regarding the main architect of this legislation, a letter sent in June 2020 by both Nevada senators – Senator Rosen and Senator Cortez-Masto along with three members of Congress urging Governor Sisolak, Speaker Frierson, and Majority Leader Cannizzaro to replace the Patrick Anthony McCarran statue in the National Statuary Hall Collection with a statue of a different individual from the State of Nevada who "better represents our state's values. Nevada Senator McCarran, counsel includes dark legacy of virulent racism, anti-Semitism, and xenophobia."

DATED January 29, 2021.

RENE L. VALLADARES Federal Public Defender

By: /s/Lauren Gorman

LAUREN GORMAN Assistant Federal Public Defender Counsel for CARRILLO-LOPEZ

CERTIFICATE OF ELECTRONIC SERVICE

The undersigned hereby certifies that she is an employee of the Federal Public Defender for the District of Nevada and is a person of such age and discretion as to be competent to serve papers.

That on January 29, 2021, she served an electronic copy of the above and foregoing **NOTICE OF SUPPLEMENTAL AUTHORITY** by electronic service (ECF) to the person named below:

NICHOLAS A. TRUTANICH United States Attorney PETER WALKINGSHAW Assistant United States Attorney 400 South Virginia Street, Suite 900 Reno, NV 89501

/s/ Katrina Burden

Employee of the Federal Public Defender